

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel, W.A. DREW
EDMONDSON, in his capacity as ATTORNEY
GENERAL OF THE STATE OF OKLAHOMA,
et al.,

Plaintiff,

v.

TYSON FOODS, INC., et al.,

Defendants.

Case No. 4:05-CV-329-JOE-SAJ

**DEFENDANTS' RESPONSE TO THE STATE OF OKLAHOMA'S REQUEST FOR
ORAL ARGUMENT ON DEFENDANTS' MOTION TO STAY PROCEEDINGS**

COME NOW Defendants, Tyson Foods, Inc.; Tyson Poultry, Inc.; Tyson Chicken, Inc.; Cobb-Vantress, Inc.; Cal-Maine Foods, Inc.; Cal-Maine Farms, Inc.; Cargill, Inc.; Cargill Turkey Production, LLC.; George's, Inc.; George's Farms, Inc.; Peterson Farms, Inc.; Simmons Foods, Inc.; and Willow Brook Foods, Inc. (collectively, "Defendants"), pursuant to FED. R. CIV. P. 7 and LCvR7.1(e) and, by and through their attorneys, submit the following as their response to the *State of Oklahoma's Request for Oral Argument on Defendants' Motion to Stay Proceedings*.

ARGUMENT

Defendants have moved this Court to enter an order staying all proceedings in this matter pending the outcome of *State of Arkansas v. State of Oklahoma*, an original action filed in the United States Supreme Court (the "Supreme Court Action"). See Defendants' Motion to Stay Proceedings and Integrated Opening Brief in Support and Request for Expedited Hearing ("Motion to Stay") (Docket No. 125). Plaintiffs have filed their Response in Opposition Defendants' Motion to Stay and Defendants have filed their Reply brief (Docket Nos. 139 and 167, respectively). Therefore, under the Local Rules for the Northern District, Defendants' Motion to Stay is ripe for ruling by this Court. See LCvR 7.1(h).

As support for their Request for Oral Argument on Defendants' Motion to Stay, Plaintiffs suggest that oral argument would be "beneficial given the issue being placed before the Court and the overarching public import of the issues raised by this litigation." *See* Request for Oral Argument at 1 (Docket No. 160). Collectively, the Parties have provided this Court with more than thirty (30) pages of briefing materials in which the parties have set forth arguments and authorities in support of their respective positions on this matter. Defendants respectfully submit that both the "issue being placed before the Court" and the "public import of the issues raised by this litigation" have been fully developed in the Parties' respective briefs on this matter and that oral argument is therefore unnecessary. However, if this Court has identified issues that have not been fully addressed by the Parties, or determined that oral argument would assist the Court with its deliberations, Defendants would welcome the opportunity to appear before this Court and present additional argument in support of their Motion to Stay.

Finally, Plaintiffs have also petitioned this Court for oral argument on seven of Defendants' outstanding motions (Docket No. 159). As discussed in Defendants' response to that motion (filed concurrently herewith), Defendants respectfully submit that this Court should rule on Defendants' Motion to Stay before addressing Plaintiffs' request for oral argument on the remaining motions. The Supreme Court Action addresses many of the legal issues presented by Defendants' motions to dismiss. Therefore, the pendency of the Supreme Court Action militates in favor of this Court entering the stay requested by Defendants because the outcome of the Supreme Court Action may preclude Plaintiffs from pursuing all or a significant portion of their claims in this forum. *See* Defendants' Motion to Stay. Ruling on Defendants' Motion to Stay before considering whether to hear oral argument on the Parties' other pending motions would serve the goal of judicial economy because, if this Court stays proceedings in this matter in

deference to the Supreme Court's ongoing proceedings, adjudication of the Defendants' remaining motions may become permanently or temporarily unnecessary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of December, 2005, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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